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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------------|
| 10/531,896 | 04/21/2005 | Yasufumi Asao | 03500.017697. | 5799 |
| 5514 7590 05/06/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 | | | EXAMINER JOSEPH, DENNIS P | |
| | | | ART UNIT 2629 | PAPER NUMBER |
| | | | MAIL DATE 05/06/2009 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|--|--------------------------------------|------------------------------------|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | Application No. 10/531,896 | Applicant(s) ASAO ET AL. | |
| | Examiner DENNIS P. JOSEPH | Art Unit 2629 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1,4-10 and 21.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: Please see attached.

/Amr Awad/
Supervisory Patent Examiner, Art Unit 2629

There is new issue in the after final amendments and as a result, the claim amendments will not be entered. A request for reconsideration is respectfully requested to continue prosecution of the case.

First, it seems Claim 12 was withdrawn in a previous amendment to the claims, but has been amended in this latest version, but perhaps it should also mention that it is withdrawn and currently amended. Thank you for the clarification.

The new issue in the independent claims is that the second sub-pixel must now be that of a green color filter and that the brightness of the light must now pass through medium changes within red and blue. These are more narrowly claiming the present invention in an effort to overcome the current rejection and changes the scope of the invention. Even if these did overcome the current rejection, it is new issue and a new search would be required, especially if it does overcome the current rejection. The dependent claims from this matter were not fully incorporated, and its dependents, into the independent claim. This is done to check for the new issue and to see if the case is then in condition for allowance. Furthermore, the scope of the claims has also changed and in this case, it is because of the new issue. In addition, it seemed that the color range in the canceled Claim 3 was relating to the second sub-pixel. However, the amended Claim 1 seems to indicate this color range is for the first sub-pixel. While this is new issue, Applicant is asked to point out where the support in the specification for it being applied to the first sub-pixel, just for new matter issues. The same issues apply to Claim 22, which Examiner believes did not have any dependent claims. Thank you.

As for Applicant's arguments, these are not respectfully considered to not be persuasive. A sub-pixel structure with associated color filters for the various pixels is well known in the art. To emphasize, Van Aerle was combined with the primary reference to teach of having a color filter for the various pixels. Van Aerle further teaches of having a green color filter in [0027], one of his many filter regions. The advantages of filters are directed to a known problem in the field and one reason is to deal with effective transmission/efficiency which can help resolve black states and this was the motivation given in the secondary reference. Several KSR principles can support this position, such as known technique and obvious to try given the known problem. Furthermore, Applicant's arguments that the two references could not be combined are also not persuasive and this goes back to the above in which filters are known to be able to be placed or integrated with pixel structures. As a result, one of ordinary skill in the art would be motivated to combine the two and the proposed combination would not destroy the primary reference Sakamoto.

Applicant is advised to better claim the retardation method or more about the transmittivity process to overcome the current rejection.

Again, the claim amendments will not be entered because of the new issue and a request for reconsideration is respectfully requested. Thank you.